

**REPORT OF THE AUDIT OF THE  
FORMER MCCRACKEN COUNTY  
SHERIFF**

**For The Period  
January 1, 2006 Through November 30, 2006**



**CRIT LUALLEN  
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## **EXECUTIVE SUMMARY**

### **AUDIT EXAMINATION OF THE FORMER MCCRACKEN COUNTY SHERIFF**

**For The Period  
January 1, 2006 Through November 30, 2006**

The Auditor of Public Accounts has completed the former McCracken County Sheriff's audit for the period January 1, 2006 through November 30, 2006. Based upon the audit work performed, the financial statement presents fairly, in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

#### **Financial Condition:**

Excess fees decreased by \$73,161 from the prior year, resulting in excess fees of \$1,230,491 as of November 30, 2006. Revenues decreased by \$74,158 from the prior year and expenditures decreased by \$997.

#### **Report Comments:**

- The Former Sheriff Should Refund Compensation Received In Excess Of His Statutory Salary
- Expenditures In Excess Of \$20,000 Should Have Been Bid In Accordance With KRS 424.260

#### **Deposits:**

The former Sheriff's deposits as of November 15, 2006 were exposed to custodial credit risk as follows:

- Uncollateralized and Uninsured    \$6,630,061

The former Sheriff's deposits were covered by FDIC insurance and a properly executed collateral security agreement, but the primary depository bank did not adequately collateralize \$6,606,199 of the Sheriff's deposits in accordance with the security agreement. The secondary bank had uncollateralized deposits of \$23,862.



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CRIT LUALLEN  
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Van Newberry, McCracken County Judge/Executive  
The Honorable Frank Augustus, Former McCracken County Sheriff  
Members of the McCracken County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the former Sheriff of McCracken County, Kentucky, for the period January 1, 2006 through November 30, 2006. This financial statement is the responsibility of the former Sheriff. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the Sheriff's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the former Sheriff for the period January 1, 2006 through November 30, 2006, in conformity with the regulatory basis of accounting described in Note 1.

The schedule of excess of liabilities over assets is presented for purposes of additional analysis and is not a required part of the financial statement. Such information has been subjected to the auditing procedures applied in the audit of the financial statement and, in our opinion, is fairly stated, in all material respects, in relation to the financial statement taken as a whole.



The Honorable Van Newberry, McCracken County Judge/Executive  
The Honorable Frank Augustus, McCracken County Sheriff  
Members of the McCracken County Fiscal Court

In accordance with Government Auditing Standards, we have also issued our report dated March 14, 2008 on our consideration of the former Sheriff's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discusses the following report comments:

- The Former Sheriff Should Refund Compensation Received In Excess Of His Statutory Salary
- Expenditures In Excess Of \$20,000 Should Have Been Bid In Accordance With KRS 424.260

This report is intended solely for the information and use of the former Sheriff and Fiscal Court of McCracken County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these interested parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Crit Luallen', with a long horizontal flourish extending to the right.

Crit Luallen  
Auditor of Public Accounts

March 14, 2008



MCCRACKEN COUNTY  
FRANK AUGUSTUS, FORMER SHERIFF  
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Period January 1, 2006 Through November 30, 2006

Revenues

State - Kentucky Law Enforcement Foundation Program Fund		\$	127,391
State Fees For Services:			
Finance and Administration Cabinet	\$	70,560	
Mental Health Transport		7,655	
Sheriff Security Service		<u>65,091</u>	143,306
Circuit Court Clerk:			
Sheriff Security Service		4,228	
Fines and Fees Collected		<u>13,302</u>	17,530
Fiscal Court			92,555
County Clerk - Delinquent Taxes			6,755
Commission On Taxes Collected			697,047
Fees Collected For Services:			
Auto Inspections		37,790	
Accident and Police Reports		463	
Serving Papers		71,022	
Carrying Concealed Deadly Weapon Permits		9,715	
Arrest Fees		13,015	
Miscellaneous		<u>13,194</u>	145,199
Other:			
Executions and Sheriff Sales		14	
2nd Notice/Sheriff Fee Taxes		<u>92,080</u>	92,094
Interest Earned			<u>41,509</u>
Total Revenues			1,363,386

The accompanying notes are an integral part of this financial statement.

MCCRACKEN COUNTY  
 FRANK AUGUSTUS, FORMER SHERIFF  
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS  
 For The Period January 1, 2006 Through November 30, 2006  
 (Continued)

Expenditures

Operating Expenditures:

Materials and Supplies-

Office Materials and Supplies

\$ 213

Other Charges-

Refunds

90

Civil Papers

90

Carrying Concealed Deadly Weapon Permits

5,785

Service Charges

8,845

Transporting Fugitives

22,563

Miscellaneous

13,586

Total Expenditures

\$ 51,172

Net Revenues

1,312,214

Compensation Paid to Former Sheriff

92,555

Less: Disallowed Accumulated Vacation Pay

8,915

Less: Disallowed Salary Over Statutory Maximum

1,917

81,723

Excess Fees Due County for Period Ending November 30, 2006

1,230,491

Payments to Fiscal Court - Monthly

1,213,324

Balance Due Fiscal Court at Completion of Audit

\$ 17,167

The accompanying notes are an integral part of this financial statement.

MCCRACKEN COUNTY  
NOTES TO FINANCIAL STATEMENT

November 30, 2006

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the Sheriff as determined by the audit. KRS 134.310 requires the Sheriff to settle excess fees with the fiscal court at the time he files his final settlement with the fiscal court.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive) at November 30 that may be included in the excess fees calculation:

Interest receivable

Collection on accounts due from others for 2006 services

Reimbursements for 2006 activities

Tax commissions due from December tax collections

Payments due other governmental entities for payroll

Payments due vendors for goods or services provided in 2006

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Fee Pooling

The McCracken County Fiscal Court approved a fee pooling system for the former McCracken County Sheriff. Under the fee pooling system, revenues net of the direct expenses of the County Sheriff's Office were paid to the McCracken County Treasurer in the subsequent month. Therefore, the Fiscal Court paid almost all the expenses of the former McCracken County Sheriff's Office.

MCCRACKEN COUNTY  
NOTES TO FINANCIAL STATEMENT  
November 30, 2006  
(Continued)

Note 1. Summary of Significant Accounting Policies (Continued)

D. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

Note 2. Employee Retirement System

The county officials and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost-sharing, multiple-employer, defined benefit pension plan that covers all eligible full-time employees and provides for retirement, disability, and death benefits to plan members.

Benefit contributions and provisions are established by statute. Nonhazardous covered employees are required to contribute 5.0 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 10.98 percent for the first six months and 13.19 percent for the last six months of the year. Hazardous covered employees are required to contribute 8 percent of their salary to the plan. The county's contribution rate for hazardous employees was 25.01 percent for the first six months and 28.21 percent for the last six months of the year.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Aspects of benefits for hazardous employees include retirement after 20 years of service or age 55.

Historical trend information pertaining to CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report which is a matter of public record. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, or by telephone at (502) 564-4646.

MCCRACKEN COUNTY  
 NOTES TO FINANCIAL STATEMENT  
 November 30, 2006  
 (Continued)

Note 3. Deposits

The former Sheriff maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the Sheriff and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the Sheriff's deposits may not be returned. The former Sheriff did not have a deposit policy for custodial credit risk but rather followed the requirements of KRS 41.240(4). As of November 30, 2006, all deposits were covered by FDIC insurance or a properly executed collateral security agreement. However, as of November 15, 2006, public funds were exposed to custodial credit risk because the bank did not adequately collateralize the former Sheriff's deposit in accordance with the security agreement.

- Uncollateralized and Uninsured                      \$6,630,061

Note 4. Drug Fund

The former McCracken County Sheriff maintained a Drug Forfeiture Fund, as set forth by KRS 218A.435. The account was funded by court-ordered forfeitures of money or funds received from the sale of forfeited assets, interest received on deposits of forfeiture funds, as well as certain court-ordered contributions. The funds were to be used for various law-enforcement operations, equipment, and education. As of January 1, 2006, the Drug Fund had a balance of \$84,084. During the year, funds of \$16,180 were received, and \$90,153 was expended. The balance in the fund at November 30, 2006 was \$10,111. This amount was transferred to the incoming Sheriff.

Note 5. Special Fund

The former McCracken County Sheriff maintained a fund for its federal equitable sharing program. The account was funded by "federally forfeited cash, property proceeds, and any interest earned thereon, which are equitably shared with participating law enforcement agencies." The funds "shall be used for law enforcement purposes in accordance with the statutes and guidelines that govern equitable sharing." As of January 1, 2006, the fund had a balance of \$24,294. During the year receipts from bank interest totaled \$549, and no disbursements were made. The fund had a balance of \$24,843 on November 30, 2006, at which time this amount was transferred to the incoming Sheriff.

MCCRACKEN COUNTY  
FRANK AUGUSTUS, SHERIFF  
SCHEDULE OF EXCESS OF LIABILITIES OVER ASSETS - REGULATORY BASIS

November 30, 2006

Assets

Cash in Bank	\$ 652,005
Deposits in Transit	5,179
Collected Receivables	90,440
Receivables Due from Tax Account	<u>3,888</u>
Total Assets	751,512

Liabilities

Paid Obligations:

Outstanding Checks	\$ 657,109
Outstanding Liabilities	<u>88,068</u>

Total Paid Obligations 745,177

Unpaid Obligations:

McCracken County- 2006 Excess Fees Due McCracken County Fiscal Court	<u>17,167</u>
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Total Liabilities 762,344

Total Fund Deficit as of November 30, 2006 \$ (10,832)

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND  
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL  
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS







CRIT LUALLEN  
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Van Newberry, McCracken County Judge/Executive  
The Honorable Frank Augustus, Former McCracken County Sheriff  
Members of the McCracken County Fiscal Court

Report On Internal Control Over Financial Reporting And  
On Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With Government Auditing Standards

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the former McCracken County Sheriff for the period January 1, 2006 through November 30, 2006, and have issued our report thereon dated March 14, 2008. The Sheriff's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the former McCracken County Sheriff's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statement and not to provide an opinion on the internal control over financial reporting. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be material weaknesses. A material weakness is a reportable condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements caused by error or fraud in amounts that would be material in relation to the financial statement being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. We noted no matters involving the internal control over financial reporting and its operation that we consider to be material weaknesses.

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the former McCracken County Sheriff's financial statement for the period January 1, 2006 through November 30, 2006, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on



Report On Internal Control Over Financial Reporting And  
On Compliance And Other Matters Based On An Audit Of The Financial  
Statement Performed In Accordance With Government Auditing Standards  
(Continued)

Compliance And Other Matters (Continued)

compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance or other matters that are required to be reported under Government Auditing Standards and which are described in the accompanying comments and recommendations.

- The Former Sheriff Should Refund Compensation Received In Excess Of His Statutory Salary
- Expenditures In Excess Of \$20,000 Should Have Been Bid In Accordance With KRS 424.260

This report is intended solely for the information and use of management, the McCracken County Fiscal Court, and the Kentucky Governor's Office for Local Development and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", with a long horizontal flourish extending to the right.

Crit Luallen  
Auditor of Public Accounts

March 14, 2008

## COMMENTS AND RECOMMENDATIONS



MCCRACKEN COUNTY  
FRANK AUGUSTUS, FORMER SHERIFF  
COMMENTS AND RECOMMENDATIONS

For The Period January 1, 2006 Through November 30, 2006

STATE LAWS AND REGULATIONS:

The Former Sheriff Should Refund Compensation Received In Excess Of His Statutory Salary

The former Sheriff's compensation for the period January 1, 2006 through November 30, 2006 totaled \$92,555. The former Sheriff's salary should have been \$81,723, resulting in an overpayment of \$10,832. This overpayment was caused by the \$8,915 lump sum payment for accumulated vacation leave along with a \$1,917 overpayment of the former Sheriff's base salary.

According to OAG 88-7, "Constitutional Officers are not entitled to vacation pay over and above their base salary." As an elected official, a sheriff receives compensation for serving his/her term in office regardless of the number of hours he/she spends in performing that service. The statutory provisions of such office do not authorize additional compensation for sick leave, annual leave, or compensatory time.

Due to the opinion above, we recommend that the former Sheriff deposit \$10,832 into his fee account for the \$8,915 received for accumulated vacation leave as well as the \$1,917 overpayment of base salary. This refund of \$10,832 will provide sufficient funds in the Sheriff's fee account so that \$17,167 of excess fees can be remitted to fiscal court.

*Former Sheriff Frank Augustus' Response:*

*None.*

Expenditures In Excess Of \$20,000 Should Have Been Bid In Accordance With KRS 424.260

During the period January 1, 2006 through November 30, 2006, the former Sheriff purchased four police cruisers totaling \$83,940 without following proper bidding procedures. According to KRS 424.260, no sheriff may make a contract involving expenditure in excess of twenty thousand dollars (\$20,000) without first making newspaper advertisement for bids. Due to the amount of total expenditures exceeding twenty thousand dollars, the former Sheriff should have followed the bidding requirements established by KRS 424.260.

*Former Sheriff Frank Augustus' Response:*

*None.*

